IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7974 OF 2006

Janbai Khanderao
Keny & Ors. .. Petitioners.

vs.

Motiram Mangul Keny
& Ors. . .. Respondents.

Mr. Hitendra G. Damani for petitioners.
Mr. S.B. Amin with M.C. Thacker
for Respondent Nos. 5 & 6.
Mr. P.K. Samdani & S.N. Trivedi for
Respondent No. 9.

CORAM : A.P. DESHPANDE, J.

DATE : 18th December, 2006.

P.C.

. An application for impleadment as a party defendant was moved by Ferani Hotels Pvt. Ltd., and an order passed by the City Civil Court allowing the said application is challenged by filing this writ petition. The applicant claimed before the trial Court that they have constructed the building on the suit land and the property is in the possession of the applicant. To substantiate the fact that they

have constructed the building, a

completion certificate issued by the Municipal Corporation and addressed to the applicant was filed before the trial Court. Besides the said document, a communication from Nusli Wadia, Adminsitrator of the estate of late B.F. Dinshaw, yet again addressed to the applicant, indicating delivery of possession of the land in question dated 25th May is also placed on record. The said letter goes to indicate that the administrator of the Estate had allowed the applicant to enter into and upon the above mentioned lands and the applicant is further authorised to carry out the development in accordance with the agreement. Relying on the documents placed on record by the applicant and after holding that prima facie the applicant seems to have constructed the building and is in possession, the application has been allowed.

2. There is no patent illegality or impropriety committed by the court below so as to require any interference in exercise of writ jurisdiction. A discretionary order passed in the fact situation, does not need to be interfered with.

3. In the result, the writ petition is summarily rejected.

(A.P. Deshpande, J.)